

ECKERT
S E A M A N S
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

TEL: 717 237 6000
FAX: 717 237 6019

Sarah C. Stoner
717-237-6026
sstoner@eckertseamans.com

June 14, 2024

DATE OF DEPOSIT

JUN 14 2024

Via Federal Express

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: **Pro Forma Application** of Windstream Holdings II, LLC; New Windstream, LLC; Windstream Services, LLC; A.R.C. Networks, Inc.; American Telephone Company LLC; ATX Licensing, Inc.; Broadview Networks, Inc.; Broadview NP Acquisition Corp.; Business Telecom LLC; Cavalier Telephone Mid-Atlantic, LLC; Choice One Communications of Pennsylvania, Inc.; CTC Communications Corp.; DeltaCom, LLC; Intellifiber Networks, LLC; LDMI Telecommunications, LLC; Lightship Telcom, LLC; MassComm, LLC; McLeodUSA Telecommunications Services, LLC; PAETEC Communications, LLC; Talk America, LLC; US LEC of Pennsylvania, LLC; Windstream Buffalo Valley, Inc.; Windstream Communications, LLC; Windstream Conestoga, Inc.; Windstream D&E Systems, Inc.; Windstream D&E Inc.; Windstream KDL, LLC; Windstream New Edge, LLC; Windstream Norlight, LLC; and Windstream Pennsylvania, LLC **for Approval of an Internal Reorganization** –
Docket No. A-2024-

Dear Secretary Chiavetta:

Enclosed for filing please find the **Pro Forma Application** of Windstream Holdings II, LLC; New Windstream, LLC; Windstream Services, LLC; A.R.C. Networks, Inc.; American Telephone Company LLC; ATX Licensing, Inc.; Broadview Networks, Inc.; Broadview NP Acquisition Corp.; Business Telecom LLC; Cavalier Telephone Mid-Atlantic, LLC; Choice One Communications of Pennsylvania, Inc.; CTC Communications Corp.; DeltaCom, LLC; Intellifiber Networks, LLC; LDMI Telecommunications, LLC; Lightship Telcom, LLC; MassComm, LLC; McLeodUSA Telecommunications Services, LLC; PAETEC Communications, LLC; Talk America, LLC; US LEC of Pennsylvania, LLC; Windstream Buffalo Valley, Inc.; Windstream Communications, LLC; Windstream Conestoga, Inc.; Windstream D&E Systems, Inc.; Windstream D&E Inc.; Windstream KDL, LLC; Windstream New Edge, LLC; Windstream Norlight, LLC; and Windstream Pennsylvania, LLC **for Approval of an Internal Reorganization**. Also enclosed is a check in the amount of \$350 to cover the filing fee. Copies to be served in accordance with the attached Certificate of Service.

ECKERT
S E A M A N S
ATTORNEYS AT LAW

Rosemary Chiavetta, Secretary
June 14, 2024
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Sincerely,

Sarah C. Stoner
Sarah C. Stoner

SCS/lww
Enclosure

cc: Cert. of Service w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pro Forma Application of Windstream Holdings II, LLC; New Windstream, LLC; Windstream Services, LLC; A.R.C. Networks, Inc.; American Telephone Company LLC; ATX Licensing, Inc.; Broadview Networks, Inc.; Broadview NP Acquisition Corp.; Business Telecom LLC; Cavalier Telephone Mid-Atlantic, LLC; Choice One Communications of Pennsylvania, Inc.; CTC Communications Corp.; DeltaCom, LLC; Intellifiber Networks, LLC; LDMI Telecommunications, LLC; Lightship Telcom, LLC; MassComm, LLC; McLeodUSA Telecommunications Services, LLC; PAETEC Communications, LLC; Talk America, LLC; US LEC of Pennsylvania, LLC; Windstream Buffalo Valley, Inc.; Windstream Communications, LLC; Windstream Conestoga, Inc.; Windstream D&E Systems, Inc.; Windstream D&E Inc.; Windstream KDL, LLC; Windstream New Edge, LLC; Windstream Norlight, LLC; and Windstream Pennsylvania, LLC for Approval of an Internal Reorganization

Docket No. A-2024-_____

DATE OF DEPOSIT

JUN 14 2024

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

**PRO FORMA APPLICATION FOR
APPROVAL OF AN INTERNAL REORGANIZATION**

Windstream Holdings II, LLC, a Delaware limited liability company ("Windstream Holdings"), on behalf of its subsidiary New Windstream, LLC ("New Windstream"); A.R.C. Networks, Inc.; American Telephone Company LLC; ATX Licensing, Inc.; Broadview Networks, Inc.; Broadview NP Acquisition Corp.; Business Telecom LLC; Cavalier Telephone Mid-Atlantic, LLC; Choice One Communications of Pennsylvania, Inc; CTC Communications Corp.; DeltaCom, LLC; Intellifiber Networks, LLC; LDMI Telecommunications, LLC; Lightship Telcom, LLC;

MassComm, LLC; McLeodUSA Telecommunications Services, LLC; PAETEC Communications, LLC; Talk America, LLC; US LEC of Pennsylvania, LLC; Windstream Buffalo Valley, Inc.; Windstream Communications, LLC; Windstream Conestoga, Inc.; Windstream D&E Systems, Inc.; Windstream D&E Inc.; Windstream KDL, LLC; Windstream New Edge, LLC; Windstream Norlight, LLC; and Windstream Pennsylvania, LLC (collectively, the “Windstream Licensees”) (together with New Windstream and Windstream Holdings, “Windstream” or the “Applicants”), respectfully request that the Pennsylvania Public Utility Commission (the “Commission”) grant authority, to the extent it may be required pursuant to 66 Pa. Cons. Stat. §§ 1102-1103 and the Commission’s Policy Statement 52 Pa. Code § 69.901, for Applicants to consummate the *pro forma* internal reorganization under 52 Pa. Code § 63.325, as described below (the “Reorganization”). The Reorganization, which will take place entirely at the parent holding company level, will result in New Windstream becoming the ultimate parent of the Windstream Licensees and certain intermediate holding company changes, but will not cause any change in operations or customer service in Pennsylvania. In addition, the Reorganization will result in one group of Windstream’s existing minority equity owners—certain funds and accounts managed, advised, or sub-advised by Pacific Investment Management Company LLC (such funds and accounts, the “PIMCO Funds” and “PIMCO,” respectively) increasing their relative share of the ownership in Windstream, but will not impact control of the Windstream Licensees due to Windstream’s governance structure, and the PIMCO Funds’ ownership interest of Windstream will remain below 50 percent.

In support of this *Pro Forma* Application, Applicants provide the following information:

I. INTRODUCTION

Through the proposed Reorganization, New Windstream, with the identical pre-closing ownership and governance structure as Windstream Holdings, will become the ultimate parent of the Windstream Licensees, and additional intermediate holding companies will be added to Windstream's parent company structure. In addition, Windstream will conduct a rights offering and repurchase certain membership interests in the company financed with proceeds from the rights offering. Windstream plans to undertake this Reorganization in order to generate tax efficiencies and to enable certain equity holders to increase their investment in the company while others decrease their investment.

No assignment of licenses, certificates, assets, or customers by the Windstream Licensees or the immediate parent entities of the Windstream Licensees will occur as a consequence of the proposed Reorganization, which will occur at the parent holding company level. The Windstream Licensees will continue to provide service under the same terms, conditions, rates and brand names as today. Accordingly, the Reorganization will be, for all practical purposes, imperceptible to the customers of the Windstream Licensees.

Windstream proposes to complete the Reorganization no later than third quarter of 2024, and respectfully requests that the Commission grant the approval requested herein by that time.

II. DESCRIPTION OF THE PARTIES AND RELATED ENTITIES

A. The Windstream Companies

1. Windstream

Windstream is a Delaware limited liability company which, through operating subsidiaries, provides fiber-based broadband to residential and small business customers in 18 states, managed cloud communications, networking and security services for mid-to-large enterprises and

government entities across the United States, and customized wavelength and dark fiber solutions for carriers, content providers, and hyperscalers in the United States.

Windstream's incumbent local exchange carrier ("ILEC") operating subsidiaries offer services to residential, business, and government customers in Alabama, Arkansas, Florida, Georgia, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, and Texas.

Windstream's competitive local exchange carrier ("CLEC") operating subsidiaries offer services in all 50 states and the District of Columbia primarily to enterprise business and government customers, such as software-defined wide area networking, unified communications as a service, solutions to enable businesses to compete more effectively in the digital economy, and offers a variety of other data services, such as cloud computing, as well. Windstream's wholesale customer segment leverages optical technology that delivers fast, flexible and customized wavelength and dark fiber solutions to carriers, content providers, and hyperscalers in the United States.

2. Windstream Licensees

Windstream's operating subsidiaries offer services in all 50 states and the District of Columbia. In Pennsylvania, Windstream's ILEC subsidiaries act as incumbent local exchange carriers offering residential and small business services, and its CLEC subsidiaries offer business and enterprise services statewide.

The Windstream Licensees are authorized to operate pursuant to Certificates of Public Convenience issued and amended in the following dockets:

- American Telephone Company LLC is a New York limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and resold

interexchange services pursuant to Commission authority in Docket Nos. A-2009-2093403, A-2009-2093404, and A-2009-2093405.

- A.R.C. Networks, Inc. is a New York corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange services pursuant to certificates granted in Docket Nos. A-310448 and A-310448F0003.
- ATX Licensing, Inc. is a Delaware corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and resold interexchange services pursuant to Commission authority in Docket Nos. A-310992 and A-310992F0002.
- Broadview Networks, Inc. is a New York corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide resold toll, interexchange, competitive access, and competitive local exchange services pursuant to Commission authority in Docket Nos. A-310932, A-310932 F0002, A-310932 F0003, and A-310932F0004.
- Broadview NP Acquisition Corp. is a Delaware corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide resold toll, competitive access, and competitive local exchange services pursuant to Commission authority in Docket Nos. A-311188, A-311188 F0002, and A-311188F0003.
- Business Telecom, LLC is a North Carolina limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and interexchange services pursuant to Commission authority in Docket Nos. A-310092, A-310092F0002, A-310092F0004, and A-2015-2478267.
- Cavalier Telephone Mid-Atlantic, LLC is a Delaware limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and switched access services, interexchange services, and competitive access services pursuant to Commission authority in Docket No. A-310838.
- Choice One Communications of Pennsylvania, Inc. is a Delaware corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and competitive access services pursuant to certificates granted in Docket Nos. A-310781 and A-310781F0002.
- CTC Communications Corp. is a Massachusetts corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and

competitive access services pursuant to Commission authority in Docket Nos. A-310295, A-310295F0002, and A-310295F0003.

- DeltaCom, LLC is an Alabama limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide resold interexchange services pursuant to Commission authority in Docket Nos. A-310467 and A-2012-2326256.
- Intellifiber Networks, LLC is a Virginia corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and competitive access services pursuant to Commission authority in Docket No. A-311102.
- LDMI Telecommunications, LLC is a Michigan limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is authorized in the Commonwealth of Pennsylvania to provide interexchange services pursuant to Commission authority in Docket Nos. A-310538 and A-310538F0002.
- Lightship Telecom, LLC is a Delaware limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and competitive access services pursuant to Commission authority in Docket Nos. A-310943, A-310943F0002, A-310943F0003, A-310943F0004.
- MassComm LLC is a New York corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and resold interexchange services pursuant to Commission authority in Docket Nos. A-2008-2046390, A-2008-2046392, and A-2008-2046394.
- McLeodUSA Telecommunications Services, LLC is an Iowa limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide interexchange services pursuant to Commission authority in Docket No. A-310456.
- PAETEC Communications, LLC is a Delaware corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and competitive access services pursuant to Commission authority in Docket No. A-310743.
- Talk America, LLC is a Delaware limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and interexchange services pursuant to Commission authority in Docket No. A-310018.
- US LEC of Pennsylvania, LLC is a North Carolina limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and

it is authorized in the Commonwealth of Pennsylvania to provide local exchange and interexchange services pursuant to Commission authority in Docket No. A-310814.

- Windstream Buffalo Valley, Inc. is a Pennsylvania corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is an incumbent local exchange carrier authorized to provide services in the Commonwealth of Pennsylvania pursuant to Commission authority in Docket No. A-310369.
- Windstream Communications, LLC is a Delaware corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and interexchange services pursuant to Commission authority in Docket No. A-311402.
- Windstream Conestoga, Inc. is a Pennsylvania corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is an incumbent local exchange carrier authorized to provide services in the Commonwealth of Pennsylvania pursuant to Commission authority in Docket No. A-310850.
- Windstream D&E Systems, Inc. is a Delaware corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and competitive access services pursuant to Commission authority in Docket No. A-310738
- Windstream D&E Inc. is a Pennsylvania corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange and competitive access services pursuant to Commission authority in Docket No. A-311050.
- Windstream KDL, LLC is a Kentucky corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and competitive access services pursuant to Commission authority in Docket No. A-311413.
- Windstream New Edge, LLC is a Delaware limited liability company. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide local exchange, interexchange, and competitive provider services pursuant to Commission authority in Docket Nos. A-310884, A-310884F0002, A-310884F0003, A-310884F0004, and A-2012-2326259.
- Windstream Norlight, LLC is a Kentucky corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 600-5050, and it is authorized in the Commonwealth of Pennsylvania to provide interexchange services pursuant to Commission authority in Docket No. A-2008-2043652.
- Windstream Pennsylvania, LLC is a Delaware limited liability corporation. Its principal address is 4005 North Rodney Parham Road, Little Rock, AR 72212, (800) 347-1991, and

it is an incumbent local exchange carrier authorized to provide services in Pennsylvania pursuant to Commission authority in Docket No. A-312050.

Windstream Pennsylvania, LLC is authorized for support in the Rural Digital Opportunity Fund Phase I Auction and received a Capital Projects Fund award. Windstream Pennsylvania and Windstream Services, LLC both received American Rescue Plan Act funding to complete broadband buildouts in the Commonwealth. These awards will not be impacted by the *pro forma* reorganization.

B. The Elliott Funds

Elliott Investment Management L.P. and its advisory affiliates (collectively, “Elliott”), headquartered at 360 Rosemary Ave., 18th Floor, West Palm Beach, FL 33401, manages multi-strategy hedge funds and other investment vehicles with over \$65 billion in assets under management. Elliott provides discretionary investment advice and other services to private investment funds and co-investment commitments, trades in securities across the capital structure, and often will take a leading role in event-driven situations to create value or manage risk. The Elliott Funds currently hold slightly less than 50 percent of the equity in Windstream.

Elliott manages investment funds holding slightly less than 50 percent of the equity in Windstream. Specifically:

- Nexus Aggregator L.P. (“Nexus Aggregator”), a Delaware limited partnership, directly holds slightly less than 50% of the equity in Windstream. Nexus Aggregator, in turn, is owned by two Elliott-managed investment funds—Elliott Associates, L.P. and Elliott International, L.P.
- Elliott Associates, L.P. (“EALP”), a Delaware limited partnership, indirectly holds slightly less than 16% of Windstream through its limited partnership interests in Nexus Aggregator.¹ EALP is owned by various insulated limited partners.

¹ In connection with the Reorganization, EALP will hold its interest in Windstream through Nexus Aggregator I-A L.P., a newly formed Delaware limited partnership owned and indirectly managed

- Elliott International, L.P. (“EILP”) a Cayman Islands exempted limited partnership, indirectly holds slightly less than 34% of Windstream through its limited partnership interests in Nexus Aggregator. EILP is owned by Elliott International Limited, a Cayman Islands exempted company, which is owned by various insulated limited partners, none of which holds a 20% or greater indirect share in Windstream.

Their ownership in Windstream will not appreciably change as a result of the Reorganization, and will remain slightly below 50 percent.²

C. PIMCO Funds and Accounts

PIMCO is a Delaware limited liability company and an SEC-registered investment adviser that is headquartered at 650 Newport Center Drive, Newport Beach, California 92660 and is one of the largest investment management firms in the United States with approximately \$1.89 trillion of assets under management as of March 31, 2024. Certain PIMCO Funds hold approximately 21 percent voting interest in Windstream.

The PIMCO Funds will not acquire additional equity in Windstream through the Reorganization. However, as described below, their aggregate percentage of the overall ownership in the company will increase to slightly below 50 percent as a result of the reduction in outstanding common units as Windstream repurchases equity from other minority investors. No individual fund or account managed, advised or sub-advised by PIMCO will have a 20 percent or greater share in Windstream as a result of the Reorganization. For reasons discussed below, due to Windstream’s governance structure and limitations on the powers of members in its limited liability company agreement, this increase in PIMCO Funds’ relative ownership of Windstream

by EALP. This change will be *pro forma* and will not affect ownership or management of the investment.

² Because no appreciable change in the Elliott Funds’ ownership share of Windstream will take place via the Reorganization, there is no need for the Elliott Funds or Elliott to be joint petitioners hereto.

common units will not have the effect of conferring any actual control upon the PIMCO Funds or PIMCO over the governance or management of the company.

III. DESIGNATED CONTACTS

All communications and correspondence concerning this Joint Application should be directed to:

For Windstream Holdings II, LLC and its Licensees, and for New Windstream, LLC:

Norman J. Kennard
Sarah C. Stoner
Bryce R. Beard
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
Tel.: (717) 237-6000
Fax: (717) 237-6019
Nkennard@eckertseamans.com
Sstoner@eckertseamans.com
Bbeard@eckertseamans.com

Nicole Winters
Windstream
4005 North Rodney Parham Road
Little Rock, AR 722212
Tel: (501) 748-6313
Fax: (330) 486-3561
Nicole.Winters@windstream.com

Luke C. Platzer
Allison M. Tjemsland
Jenner & Block LLP
1099 New York Avenue, NW
Ste. 900
Washington, D.C. 20001
Tel: (202) 639-6000
LPlatzer@jenner.com
ATjemsland@jenner.com

For PIMCO:

David Keir
Jeff Carlisle
Shannon Sylvester

Lerman Senter PLLC
2001 L Street NW
Ste. 400
Washington, D.C. 20036
Tel: (202) 429-8970
DKeir@lermansenter.com
JCarlisle@lermansenter.com
SSylvester@lermansenter.com

IV. DESCRIPTION OF THE REORGANIZATION

A. Addition of New Parent Company.

Upon receipt of the requisite regulatory approvals, Windstream Holdings, the current ultimate parent of the Windstream Licensees, will conduct a *pro forma* reorganization. Windstream Holdings is currently the immediate parent of New Windstream. It will form several new subsidiaries under New Windstream, including New Windstream Holdings II, LLC, which will be an indirect subsidiary (via additional newly-formed intermediate holding companies) of New Windstream, LLC. Windstream Holdings will then merge into New Windstream Holdings II, LLC, with New Windstream Holdings II, LLC surviving. As New Windstream is the ultimate parent of New Windstream Holdings II, LLC, New Windstream will become the ultimate parent of Windstream Holdings' Licensed Subsidiaries.

New Windstream will operate pursuant to the same limited liability company agreement as Windstream Holdings does today, and will have the identical ownership as Windstream Holdings immediately prior to the reorganization, with owners of equity and warrants in Windstream Holdings at closing receiving equivalent equity and warrants in New Windstream.

B. Non-substantial Changes in Ownership.

Prior to this *pro forma* reorganization, Windstream Holdings will undergo non-substantial changes in the relative ownership shares held by its existing equity holders that will not result in a change of majority ownership or majority control of Windstream Holdings or the Licensed

Subsidiaries. Specifically, Windstream Holdings will offer existing Windstream Holdings members the right to purchase warrants exchangeable for common units in the company. Windstream Holdings will then use the proceeds from this offering to repurchase units from certain members who wish to sell their units.

Windstream's three largest current equity holders are the Elliott Funds, the PIMCO Funds, and Oaktree.³ Elliott and Oaktree have agreed to make certain commitments to ensure that no investor will acquire majority ownership or control of Windstream Holdings as a result of the rights offering and accompanying repurchase of common units. Windstream Holdings will repurchase most of Oaktree's common units in the offering but Oaktree has committed to retain sufficient equity in Windstream Holdings to ensure that no remaining investor obtains a majority of the equity in Windstream Holdings. Elliott has agreed to backstop any shortfall in buying demand needed to satisfy selling demand. Elliott has also agreed to ensure that funds managed by Elliott will collectively hold less than 50 percent of the outstanding units after the rights offering concludes by committing to exchange any common units in the company for warrants as needed to keep each of (1) the Elliott Funds' ownership; and (2) the PIMCO Funds' ownership below 50 percent after reduction in the number of outstanding units. Common units and warrants in Windstream Holdings will then be converted into common units and warrants in New Windstream at closing.

C. Governance of Reorganized Company Unchanged.

New Windstream will operate pursuant to the identical limited liability company agreement as Windstream Holdings does today. Under the Limited Liability Agreement that governs

³ "Oaktree" means Oaktree AIF Investments, L.P., Oaktree Capital Management, L.P., Oaktree Fund GP II, L.P., Oaktree Strategic Income SPV, LLC, and their respective managed funds and accounts.

Windstream Holdings today and will govern New Windstream after the Reorganization, neither Elliott nor PIMCO has or will have the ability to appoint a majority of the Board or manage day-to-day operations of the company. Therefore, although the PIMCO Funds' ownership of Windstream's equity will increase from approximately 21 percent to approximately 49 percent as a result of Windstream repurchasing other minority investors' equity, the increase in their relative equity share will not grant PIMCO any practical ability to exercise control over the company.

D. Reorganization is Separate from and Independent of Merger of Windstream with Uniti Group

The Reorganization is separate from, and independent of, a proposed future transaction between Windstream and Uniti Group Inc., which the parties jointly announced on May 3, 2024 (the "Windstream-Uniti Merger").⁴ This Petition does not seek approval for the Windstream-Uniti Merger; Windstream and Uniti are separately applying to the Commission for approval of that merger, which is expected to close significantly later in time than the Reorganization.

The Reorganization that is the subject of this Application is solely an internal repurchase of equity from certain investors and reorganization of Windstream's holding company structure, to which Uniti is not a party. The Reorganization is not dependent upon the Windstream-Uniti Merger; Windstream intends to complete the Reorganization promptly and as soon as regulatory approvals are obtained.

V. PUBLIC INTEREST CONSIDERATION

Applicants respectfully submit that the Reorganization described herein will serve the public interest, and that Reorganization will not impact service, accommodation, convenience, or

⁴ See Press Release, Windstream, *Uniti to Merge with Windstream Creating Premier Insurgent Fiber Provider* (May 3, 2024), <https://news.windstream.com/news/news-details/2024/Uniti-to-Merge-with-Windstream-Creating-Premier-Insurgent-Fiber-Provider/default.aspx>.

the safety of the public. The Reorganization will increase tax efficiencies for Windstream, allowing Windstream Licensees to better compete in the robust telecommunications marketplace. Because the Reorganization is structured only as a *pro forma* change of ownership at the holding company level, it will not affect any of the operations of Windstream Licensees. Customers will continue to have the same service providers and will continue to receive substantially the same services and the same rates, terms, and conditions of service. Any future changes—which the Windstream Licensees expect would only be beneficial to Pennsylvania consumers—will result from the normal course of business operations, as was the case prior to the proposed Reorganization.

Once the Reorganization is completed, New Windstream will continue to be technically, managerially and financially well-qualified to be the ultimate owner of the Windstream Licensees. Likewise, the Windstream Licensees will continue to have the managerial, technical, financial, and customer care qualifications to provide high quality telecommunications services to consumers in Pennsylvania. For additional detail on the financial, technical and managerial qualifications of Windstream, please see www.windstream.com.

The Reorganization will have no adverse effects on the quality of service enjoyed by the Windstream Licensees' customers, nor will it impact the accommodation, convenience, or safety of the public. The Reorganization will not disrupt any customer-facing operations such as ordering, service installation, customer service, and billing, which will continue to be provided as before. The Reorganization will thus be seamless for Windstream Licensees' customers and accords with the public interest.

Additionally, as discussed above, there will be no impact on competition.

VI. REQUIRED INFORMATION PURSUANT TO 52 PA. CODE § 63.325(d)

1. Description of Applicants. Please see Section II(a) above.
2. Location where Applicants are Organized. Please see Section II(a) above.
3. Points of Contact. Please see Section III above.
4. Information on Owners of More than 20% of the Equity of the Applicant. Please see Section II(b) and (c) above.
5. Description of the Transaction. Please see Section IV above.
6. Service Territories Affected. No service territories will be affected by the *pro forma* intra-company changes, and Windstream will continue to provide the same services in the same locations before and after the intra-company changes.
7. Categorization of Transaction. Applicant verifies that the proposed intra-company changes fall into the *pro forma* rule transaction category under 52 Pa. Code § 63.325(a)(4).
8. Identification of Related Transactions. There are no jurisdictional transactions other than the *pro forma* intra-company changes described in this Application. As noted above, Windstream is separately also seeking Commission approval for a merger with Uniti Group Inc. (the “Windstream-Uniti Merger”), but the *pro forma* intra-company changes that are the subject of this Application are distinct from and independent of this proposed merger, and Windstream plans to complete them substantially earlier in time than the Windstream-Uniti Merger.
9. Special Considerations. Applicant does not request special consideration because Applicant is not facing imminent business failure.
10. Waiver Request. No waiver request is being made with respect to the *pro forma* intra-company changes.

11. Facts Supporting the Public Interest. Applicant verifies the facts and allegations set forth in Section V above, demonstrating the beneficial impact of the *pro forma* intra-company changes on the efficiencies of Windstream's operations, including in Pennsylvania.

12. Compliance with Commission Obligations and Listing of all State and Federal proceedings over 3-Year Period Prior to Filing. Within the three-year period preceding the filing of this Application, Windstream has been in compliance with Commission obligations and filings, and has not violated any state or federal requirements through its Pennsylvania operations.

13. Customer Notice. Customer notice is not warranted or necessary for this type of *pro forma* intra-company change because it does not involve a change in conditions of service or rates, and the intra-company change will be entirely transparent to Pennsylvania customers. Further, no transfer of customers will result from the *pro forma* intra-company changes.

14. Utility Certifications. Please see Section II, in which Applicant verifies the authority it holds in Pennsylvania.

15. Effect on Tariffs. Applicant verifies that the *pro forma* intra-company changes will have no effect on its Pennsylvania tariffs or its rates, terms, and conditions of service.

16. Effect on Affiliate Interest Agreements. Applicant verifies that the *pro forma* intra-company changes will have no effect on its affiliate interest agreements.

17. Federal or State Regulatory Agency Proceedings. Applicant verifies that the *pro forma* intra-company changes will not require an informal or formal investigation, complaint, or proceeding except for FCC and public utility commission reviews typically required for such internal reorganizations. Because the intercompany changes do not result in a change of the actual controlling party, they are considered *pro forma* rather than substantive under FCC rules governing

the transfer of telecommunications authorizations and no advance FCC approval is required.⁵

Other than the Commission, applicant is requesting approval from the following state public utility regulators:

- 1) California Public Utilities Commission
- 2) Connecticut Public Utilities Regulatory Authority
- 3) Kentucky Public Service Commission
- 4) Louisiana Public Service Commission
- 5) Mississippi Public Service Commission
- 6) New Jersey Board of Public Utilities
- 7) New York Public Service Commission
- 8) South Carolina Public Service Comm
- 9) Texas Public Service Commission
- 10) Virginia State Corporation Commission

18. Organization Charts – Before and After. See Exhibits A and B attached hereto.

19. FCC Application or U.S. DOJ Notice. Not applicable as to FCC application. As noted above, the Reorganization is considered *pro forma* rather than substantive under FCC rules because it will not result in a change of actual control, and therefore does not require advance approval with respect to the indirect transfer of Windstream's domestic and international Section 214 authorizations.

Windstream's issuance of warrants and its concurrent repurchase of Windstream interests is subject to antitrust review, as it will result in an Elliott Fund acquiring "HSR control" (defined as having the right to 50% of the profits or 50% of the assets upon dissolution) of Windstream. Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), and the rules promulgated thereunder, the warrant issuance and concurrent repurchase cannot be completed until the Elliott Fund and Windstream have given notification and furnished information to the Federal Trade Commission (the "FTC") and the DOJ Antitrust Division, and

⁵ See 47 C.F.R. § 63.24 (d) & (f).

until the applicable waiting period has expired or has been terminated. The Elliott Fund and Windstream each filed an HSR Act notification with the FTC and the DOJ on June 10, 2024. The 30-day HSR waiting period is expected to expire at 11:59 p.m. EDT on July 10, 2024.

20. Public Effect on Capital Structure. Applicant verifies that the *pro forma* intra-company changes are not expected to have any public effect of the capital structure of the Applicant over the next five years. No new financing or pledge of assets is being undertaken in connection with the proposed reorganization and Windstream's obligations under its existing credit agreement are being assumed by a successor entity within Windstream's corporate structure.

21. Broadband Deployment Commitment. Windstream is subject to broadband deployment commitments in Pennsylvania under (a) the FCC's Rural Digital Opportunity Fund, (b) the American Rescue Plan Act; and (c) its Network Modernization Plan. Applicant verifies that Windstream is currently in compliance with all such commitments.

22. ETC Status. Applicant verifies that it is in compliance with state and federal law related to ETCs, and will continue to be in compliance with the law.

23. Cross Subsidization. Applicant verifies that the proposed Reorganization does not violate any Federal or State laws prohibiting cross-subsidization.

Pursuant to 52 Pa. Code §§ 5.14 and 63.325, Applicant is providing copies of this Application to the following parties and will provide these parties with copies of all procedural motions, public responses to discovery, and orders or other actions addressing or terminating the proceeding:

Bureau of Investigation and Enforcement
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101

Office of Small Business Advocate

555 Walnut Street, 1st Floor, Forum Place
Harrisburg, PA 17101

VII. CONCLUSION

For the foregoing reasons, Applicants respectfully submit that the Reorganization furthers the public interest, poses no competitive risks, and will not impact the service, accommodation, convenience, or safety of the public. Applicants respectfully request that the Commission expeditiously approve the Transaction described herein and grant any other relief deemed necessary and appropriate by the Commission.

Respectfully submitted,

/s/ Sarah C. Stoner

Norman J. Kennard (I.D. No. 29921)
Sarah C. Stoner (I.D. No. 313793)
Bryce R. Beard (I.D. No. 325837)
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
Tel.: (717) 237-6024
Fax: (717) 237-6019
NKennard@eckertseamans.com
SStoner@eckertseamans.com
BBeard@eckertseamans.com

DATED: June 14, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pro Forma Application of Windstream Holdings II, LLC; New Windstream, LLC; Windstream Services, LLC; A.R.C. Networks, Inc.; American Telephone Company LLC; ATX Licensing, Inc.; Broadview Networks, Inc.; Broadview NP Acquisition Corp.; Business Telecom LLC; Cavalier Telephone Mid-Atlantic, LLC; Choice One Communications of Pennsylvania, Inc.; CTC Communications Corp.; DeltaCom, LLC; Intellifiber Networks, LLC; LDMI Telecommunications, LLC; Lightship Telecom, LLC; MassComm, LLC; McLeodUSA Telecommunications Services, LLC; PAETEC Communications, LLC; Talk America, LLC; US LEC of Pennsylvania, LLC; Windstream Buffalo Valley, Inc.; Windstream Communications, LLC; Windstream Conestoga, Inc.; Windstream D&E Systems, Inc.; Windstream D&E Inc.; Windstream KDL, LLC; Windstream New Edge, LLC; Windstream Norlight, LLC; and Windstream Pennsylvania, LLC for Approval of an Internal Reorganization

Docket No. A-2024-_____

DATE OF DEPOSIT

JUN 14 2024

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

**PRO FORMA APPLICATION FOR
APPROVAL OF AN INTERNAL REORGANIZATION**

VERIFICATION

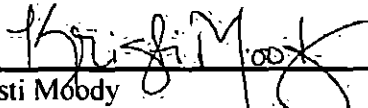
I, Kristi Moody, do hereby depose, say, and affirm the following:

1. I am the Executive Vice President – General Counsel & Chief Compliance Officer of the Applicants and I am authorized to make this Verification on behalf of each Applicant;

2. The facts set forth in the foregoing Application are true and correct to the best of my knowledge, information, and belief, and Applicants expect to be able to prove the same at any hearing hereof;

3. I understand that the statements herein made are subject to the penalties of 18 Pa. Cons. Stat. § 4904 (relating to unsworn falsification to authorities).

Dated this 14th day of June, 2024 in Pulaski County, Arkansas.



Kristi Moody
Executive Vice President – General Counsel &
Chief Compliance Officer
Windstream Holdings II, LLC
4005 N. Rodney Parham Road
Little Rock, AR 72212

Table of Exhibits

Exhibit A

Pre-Transaction Organizational Structure of Applicants

Exhibit B

Post-Transaction Organizational Structure of Applicants

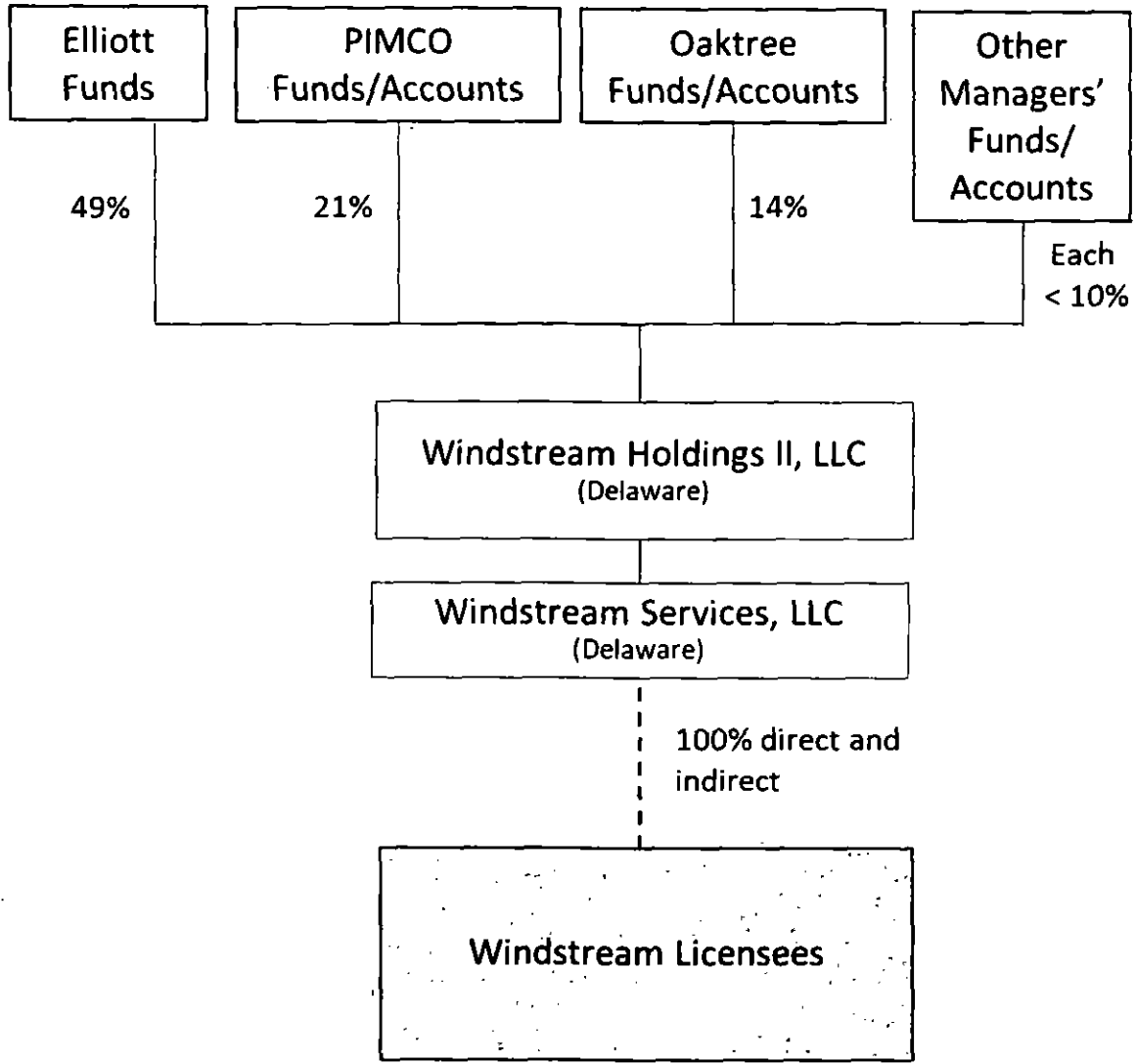
DATE OF DEPOSIT

JUN 14 2024

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

EXHIBIT A

PRE-REORGANIZATION STRUCTURE CHART



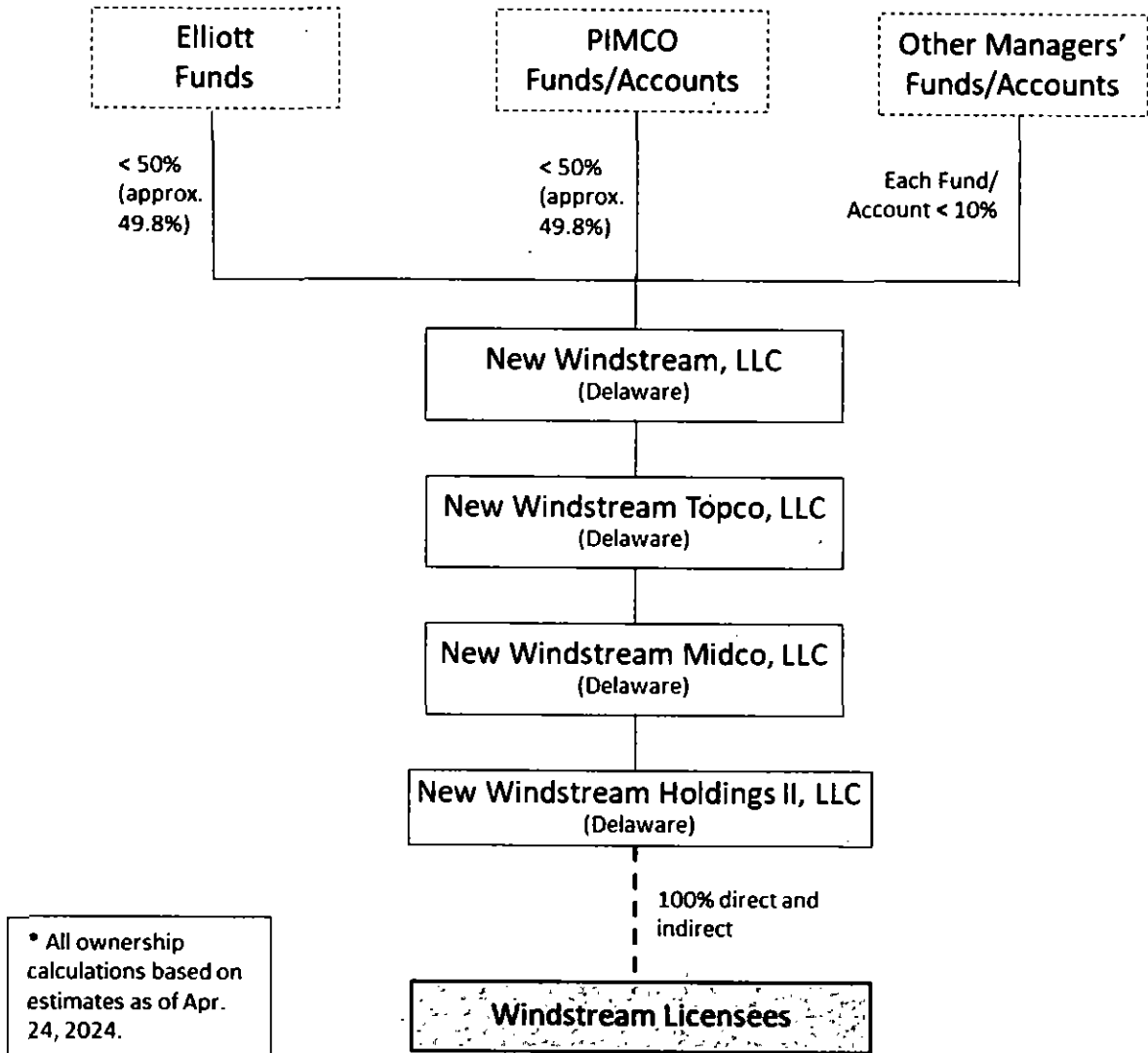
DATE OF DEPOSIT

JUN 14 2024

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

* All ownership shown as of Apr. 24, 2024.

EXHIBIT B
POST-REORGANIZATION STRUCTURE CHART



DATE OF DEPOSIT

JUN 14 2024

**PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU**

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Windstream's Pro Forma Application for Approval of an Internal Reorganization upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Allison Kaster, Esq.
Bureau of Investigation and Enforcement
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120
akaster@pa.gov

Office of Small Business Advocate
555 Walnut Street, 1st Floor, Forum Place
Harrisburg, PA 17101
Ra-sba@pa.gov

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101
Ra-oca@paoca.org

DATE OF DEPOSIT

JUN 14 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dated: June 14, 2024

Sarah C. Stoner

Sarah C. Stoner, Esq.

ORIGIN ID:MDTA (717) 237-6000
BRYCE BEARD, ESQUIRE
ECKERT SEAMANS
213 MARKET STREET
8TH FLOOR
HARRISBURG, PA 17101
UNITED STATES US

SHIP DATE: 14JUN24
ACTWGT: 1.00 LB
CAD: 103210876/NET4730

BILL SENDER

TO PA PUBLIC UTILITY COMMISSION
ROSEMARY CHIAVETTA, SECRETARY
400 NORTH STREET, 2ND FLOOR

583.5621D/SAE3

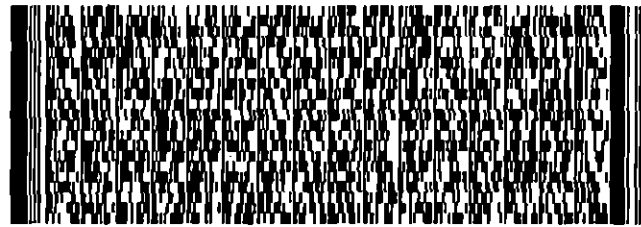
HARRISBURG PA 17120

(717) 772-7777

REF: 316175-00001

INV.
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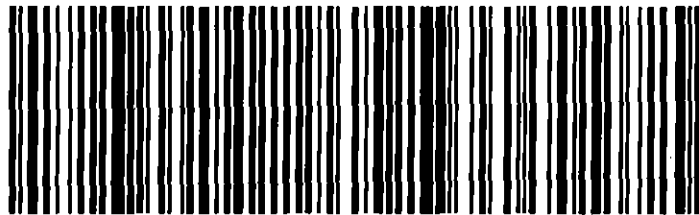


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STANDARD OVERNIGHT

TRK# 7768 7470 2558
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16 MDTA

17120
PA-US MDT



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JUN 17 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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